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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,100	08/07/2001	Thomas W. Baker	T. W. BAKER 10-1	1889

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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3694

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,100

Applicant(s)

BAKER ET AL.

Examiner

Ella Colbert

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/31/01, 9/12/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 are pending in the instant application filed 08/07/01.
2. The IDS filed 12/31/01 and 09/12/02 have been considered.
3. Applicants' are respectfully requested to submit the reference entitled "Electronic Payment Systems" by Donal O'Mahony, Michael Peirce, and Hitesh Twart, Artech House (1997) for the Examiner's review in order to give the application a proper examination.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 8, and 15 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Independent claims 1, 8, and 15 have steps missing which are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Claim 1 recites "a content vending machine for wireless delivery of content, comprising: ... to receive payment information and a content request from a requestor; and ...". There are not any steps for the "content vending machine" or "the request fulfiller" or the "wirelessly transmit content". A suggestion as to how the step(s) might be written as follows: "The request receiver further configured to receive payment information and a content request by the request receiver of the content vending machine from the requestor; a request fulfiller ...; the request fulfiller configured

to verify said payment information associated with the request receiver of the content vending machine and to retrieve content responsive to said content request to wirelessly transmit said content to the said requestor.”

Claim 8 has a similar problem. Also, claim 8 has a problem with the format for a method claim. A suggestion as follows: “ A method for wirelessly delivering content, the method comprising: ... : ...: ...: and transmitting wirelessly said content to the said requestor”. Claim 15 has a similar problem like claims 1 and 8 with essential steps missing.

Specification

6. The specification is objected to because Page 2 [0005], line 2 recites “products are requested on a voluntarily basis. Also, ...”. This line would be better recited as “products are requested on a volunteer basis. Also, ...”. Page 7, contains a hypertext link in the last line. This line would be better as “Bluetooth.com”. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over (W0 01/57617 A2) Blackson et al, hereafter Blackson. Priority date 05 February 2000 (US 60/180,490).

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Claim 1. Blackson discloses, A content vending machine for wireless delivery of content, comprising: a request receiver configured to receive payment information and a content request from a requestor (Page 7, lines 3-10, Page 8, lines 2-10, and Fig. 2); and a request fulfiller, associated with said request receiver, configured to verify said payment information, retrieve content responsive to said content request and wirelessly transmit said content to said requestor (Page 11, lines 3-26). Blackson did not expressly disclose a request fulfiller. However, Blackson did disclose a device where the user can enter operation inputs and make a selection of a particular digital sound recording or other portion of digital content to dispense (this is interpreted as a request fulfiller).

Claims 2, 9, and 16. Blackson discloses, wherein said payment information is configured to be wirelessly received from said requestor (Page 15, lines 1-12 (discloses a fee (payment) and line 25-page 16, line 18).

Claims 3, 10, and 17, Blackson discloses, wherein said content request is configured to be wirelessly received from said requestor (Page 15, lines 1-9).

Claims 4, 11, and 18, Blackson discloses, wherein said requestor is a personal digital assistant (Page 15, lines 9-13).

Claims 5, 12, and 19, Blackson discloses, wherein said content is selected from the group consisting of: computer data, audio data, and video data (Page 2, lines 1-23, Page 12, lines 19-22, Page 14, lines 1-10).

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Claims 6, 13, and 20, Blackson discloses, wherein said request fulfiller comprises a Bluetooth-compliant transmitter configured to wirelessly transmit said content to said requestor (Page 15, lines 3-9 (Bluetooth)).

Claims 7, 14, and 21, Blackson discloses wherein said content vending machine is coupled to a communications network (Page 6, lines 6-16 and line 22 –Page 7, line 2).

Claim 8. Blackson further discloses, A method for wirelessly delivering content, comprising: verifying said payment information by a request fulfiller, associated with said request receiver, of said content vending machine (Page 11, lines 3-26).

This independent claim is rejected for the similar rationale as given above for claim 1.

Claim 15. Blackson discloses, An information delivery system for wireless delivery of content over a communications network, comprising: a content reservoir coupled to said communications network that stores content (Page 11, lines 12-26); and a content vending machine, coupled to said content reservoir, including: a request receiver that receives payment information and a content request from a requestor (Page 9, lines 11-28 and Page 11, line 27 –Page 12, line 22). This independent claim is rejected for the similar rationale as given above for claims 1 and 8.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Friedman (US 2002/0188863) disclosed payment services and Bluetooth wireless technology.

Kaehler et al (US 2002/0107610) disclosed a special product vending system.

Kolls (US 6,763,336) disclosed a vending machine with products and a payment system and a wireless network.

Villart et al (US 2002/0046185) disclosed a personal digital assistant (PDA) and a payment system.

Inquiries

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 28, 2006


ELLA COLBERT
PRIMARY EXAMINER